



**International Convention on
the Elimination
of all Forms of
Racial Discrimination**

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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Seventy-second session

SUMMARY RECORD OF THE 1846th MEETING

Held at the Palais Wilson, Geneva,
on Monday, 18 February 2008, at 10 a.m.

Chairperson: Mr. de GOUTTES

later: Ms. DAH

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The meeting was called to order at 10.25 a.m.

OPENING OF THE SESSION

1. The CHAIRPERSON declared open the seventy-second session of the Committee on the Elimination of Racial Discrimination. He welcomed Mr. Salama, Chief of the Human Rights Treaties Branch, and invited him to take the floor.

SOLEMN DECLARATION BY THE NEWLY ELECTED MEMBERS OF THE COMMITTEE UNDER RULE 14 OF THE RULES OF PROCEDURE (item 1 of the provisional agenda)

2. Mr. SALAMA (Chief, Human Rights Treaties Branch) invited the following members to read out the solemn declaration contained in the annotations to item 1 of the provisional agenda (CERD/C/72/1): Mr. Lahiri, Mr. Avtonomov, Mr. Cali Tzay, Ms. Dah, Mr. Diaconu, Mr. Huang Yong'an, Mr. Murillo Martínez, Mr. Peter and Mr. Prosper.

STATEMENT BY THE CHIEF OF THE HUMAN RIGHTS TREATIES BRANCH

3. Mr. SALAMA (Chief, Human Rights Treaties Branch), reviewing developments since the Committee's previous session, said that the Committee had been the first treaty body to adopt revised reporting guidelines for a core document geared specifically to its mandate, and had been followed by the Committee on the Elimination of Discrimination against Women. That important achievement helped to alleviate the burden on States parties and to harmonize treaty bodies' approach to monitoring State compliance in pursuit of the overall aim of ensuring the cohesive and transparent operation of the system.

4. The Human Rights Council, at its sixth session, had completed its work on institution-building, the most important outcome being resolution 5/1 which set out the modalities, principles and objectives of the Universal Periodic Review (UPR). The UPR mechanism was based on three documents: a compilation of findings and recommendations by all treaty bodies, special procedures and other relevant United Nations bodies, currently being prepared by the Office of the High Commissioner for Human Rights (OHCHR); a report containing the views of relevant stakeholders, in particular national human rights institutions and non-governmental organizations (NGOs); and a report by the Member State itself. The aim was that the UPR should create a clearer, panoramic picture of the human rights situation in each Member State.

5. The Council had also selected the States that would be considered first, the overall aim being to review 48 Member States each year and to cover all Member States over a four-year cycle. The biggest challenge of the UPR was to ensure that it did not duplicate the treaty-body process. Although the Member States and OHCHR were making every effort to prevent duplication and to ensure that the UPR provided added value, the main lessons would be learned from observing how the institutional reformulation that had taken place would function in practice.

6. The Committee had been closely involved in the follow-up to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, and effective implementation of the Durban Declaration and Programme of Action; the Intergovernmental

Working Group on the Effective Implementation of the Durban Declaration and Programme of Action had invited States to consider the Committee's recommendations contained in the study on complementary standards and ways to improve Committee procedures.

7. At the organizational session of the Preparatory Committee for the Durban Review Conference, to be held in 2009, the decision had been taken to circulate a questionnaire in preparation for its substantive session in April 2008. CERD's input would be especially important, and the questionnaire would be distributed to members at the current session. Regional conferences would be held leading up to the final Preparatory Committee session in October 2008.
8. The adoption by the General Assembly of the United Nations Declaration on the Rights of Indigenous Peoples on 13 September 2007, after two decades of negotiations among Member States and indigenous peoples all over the world, was a step forward in consolidating the international human rights system and affected some 370 million indigenous people. Since the issue was of great interest to the Committee, he trusted that it would examine ways of contributing to the effective realization of the Declaration.
9. Challenges persisted in the task of increasing the visibility of the treaty-body system and promoting implementation and follow-up. OHCHR was ensuring that regular training workshops were held on the work of treaty bodies, covering reporting and implementation. Three such workshops had been held in Ethiopia and one in Thailand; they had included training on the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) and on the Committee's new reporting guidelines, and had led to progress by those countries in drafting the relevant documents.
10. He pledged the full support and commitment of OHCHR to the Committee in its work at the present session and in the future.
11. Mr. THORNBERRY asked if any mechanism had been envisaged to follow up the adoption of the Declaration on the Rights of Indigenous Peoples.
12. Mr. KJAERUM, recalling that in the past the High Commissioner had welcomed Committee members at the opening of each session, wondered if the fact that she had not done so for a long time indicated a lack of interest in the Committee's work and in entering into dialogue with the Committee. The High Commissioner's absence coincided with a decrease in OHCHR support for the treaty bodies' work, which had occurred despite the fact that Heads of State and Government had decided at the 2005 World Summit in New York to double the OHCHR budget, and despite the fact that supporting treaty bodies constituted a core OHCHR function. While the Committee might not have agreed with the High Commissioner on how to go about achieving a unified, single treaty body, it had understood the reasons underlying the proposal to establish such a body and agreed with her concerns on such issues as treaty bodies' inefficiency and their lack of recognition on the ground. The Committee had therefore taken a number of measures in order to meet the challenge, such as establishing follow-up procedures and urgent-action procedures, and to increase its relevance to the end-users of the concluding observations, i.e. States parties, national institutions and NGOs. However, when such efforts were not sufficiently backed by OHCHR, there was a risk of undermining the entire system. He

therefore wanted to know what to expect from the High Commissioner in the future, and whether the Committee should reduce the tempo of its activities while OHCHR sorted out its priorities.

13. Mr. DIACONU said that he welcomed the adoption by the General Assembly of the Declaration on the Rights of Indigenous Peoples. With regard to the assistance provided by OHCHR to States parties that had difficulty complying with their reporting obligations due to a lack of means, it might be useful to consider assisting such States on a group, rather than an individual, basis. Since many of the States concerned were small island nations in the Pacific and Caribbean regions, a team could be sent to a central location in each region to assist with preparing reports for one or even several treaty bodies. Work might also be done in New York with the permanent representatives of those States. It was important for OHCHR to consider those and other ways of better attending to States parties that required assistance in preparing their periodic reports.

14. Mr. LAHIRI requested clarification of exactly how the UPR mechanism would assess the human rights situation in countries that had not signed any of the core human rights treaties and therefore had no direct responsibilities under those instruments, except for those emanating from the Universal Declaration of Human Rights.

15. Mr. LINDGREN ALVES said that, although it seemed logical for the Committee's input to be considered highly important in preparations for the Durban Review Conference, such had not been the case with regard to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance. In fact, no document issued by the Committee had been circulated at the World Conference. He welcomed the fact that there would be several regional preparatory meetings prior to the Review Conference, which would offer a valuable opportunity for the Committee to contribute. He wished to know whether, in the light of preparations for the Review Conference, the proposal to establish a unified standing treaty body, which most treaty bodies had opposed, was still under consideration and whether the criticism that there were lacunae in the Convention was still being raised. That criticism was attributable to ignorance of the Committee's work, given that the Committee regularly remedied any lacuna in the text of the Convention through the adoption of general recommendations.

16. Mr. MURILLO MARTÍNEZ asked whether the Committee had been assigned a specific role with regard to preparatory meetings for the Review Conference, the Conference itself or its follow-up.

17. Mr. CALI TZAY wished to know what mechanism would be used to implement the Declaration on the Rights of Indigenous Peoples and what approach would be taken by the United Nations as a whole in terms of follow-up to the Declaration and policy guidelines.

18. The CHAIRPERSON commended the entire Committee secretariat for its exceptional efforts in recent years to meet the needs and expectations of the High Commissioner and States parties in improving and rationalizing the Committee's working methods. Regrettably, that did not alter the fact that the Committee needed additional resources to carry out its work.

19. Mr. SALAMA (Chief, Human Rights Treaties Branch) said that a new mechanism for the implementation of the Declaration on the Rights of Indigenous Peoples, composed of a committee of experts, would begin its work in October 2008. Its mandate would be to conduct

thematic studies, on the basis of which it would generate suggestions and recommendations to the Human Rights Council. The fact that the Declaration had been the outcome of two decades of difficult discussions and political controversy meant that its mere existence was already an achievement. Nevertheless, the usefulness of that achievement would depend on the means used to ensure implementation and follow-up. Because the Declaration could be considered as a sort of “soft law” managed by a committee of experts, the brunt of the responsibility for implementing it would fall on the relevant treaty bodies and special rapporteurs, who would deal with departures from it in the context of their own internal procedures.

20. One of the reasons for the perceived inadequacy of OHCHR support for the Committee was that, owing to the budgetary processes of the United Nations, requests by Member States to broaden the mandates of the treaty bodies were not always accompanied by the corresponding budgetary and secretariat support. Thus, despite the desirability of the expansion of the Committee’s work to include such activities as the drafting of general recommendations and follow-up to the implementation of its recommendations, budgetary constraints were such that the necessary increase in OHCHR support had not been forthcoming.

21. Another explanation was that OHCHR’s workload in the past year had been unusually demanding, given that it had had to deal with both the dissolution of the Commission on Human Rights and the establishment of the Human Rights Council, along with all the difficulties entailed by the restructuring of the Council’s constituent institutions, principal among which were the UPR mechanism and the special procedures mechanisms. Among the efforts undertaken to remedy the shortcomings noted during the turbulent phase of last year’s institution-building exercise, the Human Rights Treaties Branch had been established as a separate entity from the Human Rights Council Branch.

22. Although consideration had been given to the idea of a unified standing treaty body, the latter was not the only possible means of achieving the reform objectives of rationalization and harmonization, as evidenced by the expanded core document, which had already been implemented in several countries. Nevertheless, because such reforms had coincided with the establishment of the Human Rights Council and the introduction of the UPR mechanism, all the attention, in terms of political interest and resources, had focused on those developments. That did not mean that the existing core functions should be neglected, although there was no denying the fact that the end result had been a failure to increase the level of support to match the Committee’s expanded functions. Despite that failure, it was important to consider additional support from OHCHR in terms of not only quantitative budgetary increases, but also the qualitative approaches that might be adopted to compensate for the lack of resources.

23. Currently, OHCHR was working on a new capacity-building strategy that would address both reporting to treaty bodies and the follow-up to their recommendations. Given that the main generators of requests for capacity-building and action to monitor compliance were the treaty bodies and OHCHR field offices, discussions would be held with both groups in order to develop the strategy further. The main idea was to accomplish more with fewer resources and to ensure that activities such as training were sustainable. Priority would be given to countries that had adopted the expanded core document and treaty-specific targeted reports, and also to those that had set up inter-ministerial structures for both reporting and follow-up. The rationale was that

technical support for the preparation of a periodic report was not in itself sufficient if a country did not subsequently establish the requisite internal structures and capacities to meet its reporting obligations in an independent fashion.

24. Responding to Mr. Kjaerum's question on how to approach the UPR, he said that the Committee should maintain the momentum of its work. It should continue its efforts to find more common interpretative ground by drafting general recommendations, and to expand the scope of its implementation follow-up exercises.

25. The High Commissioner's absence from the present meeting in no way indicated a lack of interest in the Committee's work. She fully supported his current interaction with the Committee on her behalf, and she counted on the Committee's input in future activities and in the treaty body reform process. It was important to note that the possibility of establishing a unified standing treaty body did not negate other options.

26. Under the UPR, the standard recommendation for countries that had not ratified the Convention would be that they should do so. That would doubtless lead to a significant increase in ratifications and the withdrawal of many reservations. It would, however, highlight the fact that the treaty body system was unduly burdensome in its current form. Nonetheless, no new mechanism would be introduced at the expense of the pivotal role of the existing treaty bodies.

27. The Committee had an important role to play in follow-up activities to the Durban Declaration and Programme of Action, and its replies to the questionnaire to be circulated at the current session would be of value to the review process. Member States' calls for additional funding would be unsubstantiated unless they could prove that they already fulfilled the existing standards and complied with current follow-up mechanisms. The perceived lacunae in the Convention should be filled through the various thematic inputs.

28. Mr. LINDGREN ALVES suggested that the secretariat should include the Committee's positions regarding those lacunae and the unified treaty body in its proposals for adoption by Member States.

29. Mr. KJAERUM observed that, given there had been expansion in field activities, that was clearly the current priority. Funding was being directed to those activities rather than to core functions in Geneva, such as those of the treaty bodies and the Human Rights Council.

30. Mr. ABOUL-NASR asked whether steps were being taken to encourage the media to participate in the work of the treaty bodies. There was a need to increase public awareness of the treaty bodies' work in order to ensure proper follow-up.

31. Mr. SALAMA (Chief, Human Rights Treaties Branch) said that visibility was among the issues currently facing several treaty bodies, such as the Human Rights Committee, which had reflected on its media policy at its previous session. He advised the Committee to focus on bringing its findings to the attention of stakeholders on the ground, such as Governments and civil society. One potential positive effect of the UPR was that it would guarantee that the national preparation process for the review would be highly visible. The review guidelines clearly required large-scale national consultation to evaluate the implementation stage and the challenges met in dealing with the different treaty bodies.

32. On the issue of funding, expansion in the field was necessary in order to give practical effect to the work of the treaty bodies; they were the main reservoir of legitimacy, enshrined as it was in internationally-binding legal instruments.

33. Mr. AMIR welcomed the comments and suggestions made by the Chief of the Human Rights Treaties Branch. He stressed, however, that it was important to go beyond a purely juridical approach to human rights issues and ensure, in the name of justice, that practical steps were taken to meet the needs of those who still suffered the effects of racial discrimination in their daily lives, for example minority groups in Guatemala, or the aborigines of Australia, to whom the Government of Australia had only recently apologized for the discrimination they had suffered in the past. He agreed with Mr. Aboul-Nasr that too little progress had been made and said that the major media must be used to increase awareness of the need to eliminate all forms of racial discrimination. To that end, every provision of human rights treaties, including the Convention, must certainly be implemented, but treaty bodies, including CERD, must be seen to be an effective tool not only for juridical conformity with relevant international instruments, but also for concrete progress towards the elimination of all racial discrimination in practice.

34. The CHAIRPERSON thanked the Chief of the Human Rights Treaties Branch for his clear and informative comments and for promoting a frank and useful dialogue with the Committee.

35. Mr. SALAMA (Chief, Human Rights Treaties Branch) said that he looked forward to continued dialogue with the Committee. The invitation issued to the Chairpersons of the human rights treaty bodies to address the General Assembly would provide an opportunity to go beyond a juridical approach to human rights questions and to share pressing concerns directly with Member States. While treaty bodies must continue to comment on the implementation and interpretation of international instruments, they could also help identify priority areas for Member States. In addition, given that NGOs and national human rights mechanisms were the natural allies of the treaty bodies in ensuring implementation of the relevant instruments, he suggested closer coordination with the National Institutions Unit within OHCHR.

ELECTION OF OFFICERS (item 2 of the provisional agenda)

36. The CHAIRPERSON said he had been informed that there were two candidates from the African Group for the office of Chairperson: Mr. Amir and Ms. Dah. He invited Committee members to proceed to the vote.

37. A secret ballot was held.

38. Ms. Dah was elected Chairperson by 12 votes to 5 and took the Chair.

39. The CHAIRPERSON said that she regretted the lack of communication which had led to the election of a Chairperson by secret ballot. She thanked Mr. de Gouttes for the patience and competence he had shown during his term as Chairperson, and would look to him and other past Chairpersons for advice and support. The Committee would proceed to the election of other officers following informal consultations.

The meeting was suspended at 12.25 p.m. and resumed at 12.40 p.m.

40. The CHAIRPERSON announced that Mr. Avtonomov, representing the Eastern European Group, Mr. Cali Tzay, representing the Latin American and Caribbean Group, and Mr. Kemal, representing the Asian Group, had been nominated as Vice-Chairpersons, and that Mr. Sicilianos, representing the Western European Group, had been nominated as Rapporteur. She took it that the Committee wished to elect those candidates by acclamation.

41. It was so decided.

ADOPTION OF THE AGENDA (item 5 of the provisional agenda) (CERD/C/72/1)

42. The provisional agenda was adopted.

The meeting rose at 12.45 p.m.